

**REMARKS**

Claims 1-52 are pending in the application for the Examiner's review and consideration.

**CLAIM REJECTIONS UNDER 35 U.S.C. §103**

Claims 1-52 were rejected under 35 U.S.C. §103(a) as being allegedly unpatentable over Wilson *et al.* ("Wilson") in view of U.S. Patent No. 3,929,678 to Laughlin *et al.* ("Laughlin") in view of U.S. Patent No. 3,959,461 to Bailey *et al.* ("Bailey I") in view of U.S. Patent No. 3,299,112 to Bailey *et al.* ("Bailey II"). Applicants respectfully traverse the rejection.

Wilson allegedly discloses a spectral displacement technique with phenolphthalein as the chromophore. *See, e.g.*, Wilson, Abstract. The inclusion properties of cyclodextrins in aqueous media have attracted considerable attention due to their potential application as controlled-release agents. *See, e.g.*, Wilson, page 927, Introduction, first column.

Bailey I allegedly discloses quaternary ammonium salts prepared from an amino amide and an amino ester. *See, e.g.*, Bailey I, col. 1, lines 24-29. The products of Bailey are useful for inclusion in hair cream rinse formulations. *See, e.g.*, Bailey I, col. 1, lines 45-47.

Laughlin discloses detergent compositions having improved particulate soil removal capability. *See, e.g.*, Laughlin, col. 1, lines 7-10.

Bailey II allegedly discloses organosilicon compounds and, in particular, to alkoxypoly(ethyleneoxy)silicones that are particularly useful as wetting agents in aqueous systems. *See, e.g.*, Bailey II, col. 1, lines 10-15. "The siloxanes of this invention are remarkably effective in promoting the wetting of various surfaces, particularly surfaces that are difficult to wet, by aqueous emulsions and solutions. This property makes the siloxanes admirably suited as additives for aqueous paints, adhesives, printing inks, dyeing baths and emulsions which must thoroughly wet surfaces in order to function properly." *See, e.g.*, Bailey II, col. 2, lines 26-32.

On pages 4-6 of the Office Action, it alleges that the present invention is obvious to one of ordinary skill in the art. Applicants respectfully submit that Wilson in view of Laughlin in view of Bailey I in view of Bailey II does not disclose or suggest each and every element of the invention. Further, Applicants submit that there is no motivation to combine these references, as hindsight is being used to reject the claims as obvious.

The Office Action is improperly using hindsight to reject the claims as obvious. Hindsight cannot be used to reject the claims as obvious. *In re Sernaker*, 702 F.2d 989, 994 (Fed. Cir. 1983); *In re Rinehart*, 531 F.2d 1048 (CCPA 1976); *In re Imperato*, 486 F.2d 585 (CCPA 1973); *In re Adams*, 356 F.2d 998 (CCPA 1966). It is legally improper to select from the prior art the separate components of the inventor's combination, using the blueprint supplied by the inventor. *C.R. Bard Inc. v. M3 Systems, Inc.*, 157 F.3d 1340, 1352 (Fed. Cir. 1998) citing *Fromson v. Advance Offset Plate, Inc.*, 755 F.2d 1549, 1556 (Fed. Cir. 1985) (holding the prior art must suggest to one of ordinary skill in the art the desirability of the claimed combination).

Wilson allegedly discloses a spectral displacement technique with phenolphthalein as the chromophoric species. Wilson allegedly discloses the results of a determination of the binding constants between  $\beta$ -cyclodextrin and a series of homologous hydrocarbon anionic surfactants and fluorocarbon anionic surfactants. *See, e.g.*, Wilson, page 928, first column. Wilson does not disclose or even suggest a composition comprising a functionally-available cyclodextrin, a cyclodextrin-incompatible surfactant, and a cyclodextrin-compatible surfactant. At best, Wilson discloses compositions having  $\beta$ -cyclodextrin and a hydrocarbon anionic surfactant or a fluorocarbon anionic surfactant. There is no disclosure or suggestion in Wilson of  $\beta$ -cyclodextrin in combination with homologous hydrocarbon anionic surfactants and fluorocarbon anionic surfactants. Thus, Wilson does not disclose or suggest all of the elements of the present invention.

Laughlin does not correct the defects of Wilson. Applicants respectfully submit that there is no motivation to combine the disclosure of Wilson with that of Laughlin. Wilson allegedly discloses a spectral displacement technique with phenolphthalein as the chromophore. *See, e.g.*, Wilson, Abstract. Laughlin allegedly discloses detergent compositions having improved particulate soil removal capability. *See, e.g.*, Laughlin, col. 1, lines 7-10. One of ordinary skill in the art would not combine Wilson's spectral displacement technique with Laughlin's detergent compositions having improved particulate soil removal capability to form a composition for capturing unwanted molecules. Thus, Laughlin does not remedy the defects of Wilson.

Bailey I also does not remedy the defects of Wilson. Applicants respectfully submit that there is no motivation to combine the disclosure of Bailey I with that of Wilson and Laughlin. Bailey I allegedly discloses quaternary ammonium salts prepared from an amino

amide and an amino ester. *See, e.g.*, Bailey I, col. 1, lines 24-29. The products of Bailey are useful for inclusion in hair cream rinse formulations. *See, e.g.*, Bailey I, col. 1, lines 45-47. As discussed above, one of ordinary skill in the art would not combine Wilson's spectral displacement technique with Laughlin's detergent compositions having improved particulate soil removal capability. Further, one would not then combine the disclosures of Wilson and Laughlin with Bailey I's quaternary ammonium salts prepared from an amino amide and an amino ester useful for hair cream rinse formulations, to form a composition for capturing unwanted molecules. Thus, Bailey I does not remedy the defects of Lawson and Wilson.

Bailey II also does not remedy the defects of Wilson. Applicants respectfully submit that there is no motivation to combine the disclosure of Bailey II with that of Bailey I, Wilson, and Laughlin. Bailey II allegedly discloses organosilicon compounds and, in particular, to alkoxypoly(ethyleneoxy)silicones that are particularly useful as wetting agents in aqueous systems. *See, e.g.*, Bailey II, col. 1, lines 10-15. Further, the compositions of Bailey II are suited as additives for aqueous paints, adhesives, printing inks, dyeing baths and emulsions which must thoroughly wet surfaces in order to function properly." *See, e.g.*, Bailey II, col. 2, lines 26-32. As discussed above, one of ordinary skill in the art would not combine the disclosure of Wilson's spectral displacement technique, with Laughlin's detergent compositions having improved particulate soil removal capability and Bailey I's quaternary ammonium salts prepared from an amino amide and an amino ester useful for hair cream rinse formulations. Further, one would not combine Bailey II's organosilicon compounds for aqueous paints, adhesives, printing inks, dyeing baths and emulsions with the disclosures of Bailey I, Wilson, and Laughlin to form a composition for capturing unwanted molecules. Thus, Bailey II does not remedy the defects of Bailey I, Lawson, and Wilson.

For the above reasons, Applicants respectfully request that the rejections made be reconsidered and withdrawn.

#### **THE DOUBLE PATENTING REJECTION**

Claims 1-52 were rejected under the judicially-created doctrine of obviousness-type double patenting as being unpatentable over claims 1-21 of U.S. Patent No. 5,578,563 to Trinh et al. ("Trinh"). Applicants respectfully traverse the rejection.

On page 7 of the Office Action, it alleges that although the claims are not identical, they are not patentably distinct from each other because Trinh *et al.* do teach a composition comprising CD and a surfactant. Applicants respectfully submit that the present invention discloses compositions comprising functionally available cyclodextrin, a cyclodextrin-incompatible surfactant, as well as a cyclodextrin compatible surfactant. Trinh, as recited in the Office Action, discloses compositions comprising cyclodextrin and a surfactant. As the present invention discloses compositions having a cyclodextrin incompatible surfactant, as well as a cyclodextrin compatible surfactant, Applicants respectfully submit that the present invention is patentably distinct from Trinh. For the above reasons, Applicants respectfully request that the rejection made be reconsidered and withdrawn.

### CONCLUSION

In view of the foregoing amendments and accompanying remarks, reconsideration of the application and allowance of all claims are respectfully requested. No fee is believed to be due for the amendments herein. Should any fee be required, please charge such fee to Procter & Gamble Deposit Account No. 16-2480.

Respectfully submitted,

By 

Mark A. Charles

Attorney for Applicant

Registration No. 51,547

Tel. No. (513) 627-4229

Dated: December 3, 2003

Customer Number: 27752